

## MEMORANDUM

**DATE:** February 23, 2011  
**TO:** Policy Committee  
**FROM:** Jose Ribeiro  
**SUBJECT:** Procedural Descriptions, Submittal Requirements and Administrative Items

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### I. Introduction

The zoning ordinance provides a broad range of information related to procedures, submittal requirements and administrative items. This information is mostly found under Article I (General), Article III (Site Plan), Article VII (Nonconformities), and Article VIII (Appeals) of the ordinance. As part of the zoning ordinance update process, staff has been tasked to research this broad topic; identify issues where revisions may be recommended, evaluate solutions, and introduce new concepts and ideas for consideration.

This memorandum focuses on revisions to the language and identification of issues under Article I (General) and Article III (Site Plan) only. Staff has identified and proposes the following sections/items for revisions: (1) Section 24-143-Site plan submittal requirements; (2) Section 24-7-Administrative fees; (3) Section 24-2-Definitions; (4) Section 24-23-Submittal requirement for legislative cases; and (5) illustrations. The first attachment to this report, Table A, provides a summary of all revisions proposed by staff to the language and content under Article I and III of the ordinance. Proposed revisions related to Article VII is discussed under a separate memorandum.

Also, as part of this researched topic, the ordinance update methodology identifies 3 subjects (under Section 24-23-Submittal requirements for legislative cases) as areas for potential research: development of guidelines for traffic studies, fiscal impact studies, and environmental impact. These are also discussed by staff, in details, under separate memorandums.

## II. Discussion Items

### A. **When Site Plans are required (Section 24-143)**

#### 1. Description of Issue

- Site plans are necessary to ensure that development is evaluated, reviewed, and properly documented by staff. This section of the ordinance provides a comprehensive list of uses which require submittal of site plans for review and approval prior to development. The ordinance also identifies a few instances where submittal of a site plan is not required: single-family dwelling units, construction of individual private decks and fences accessory to multiple-family dwellings, townhouses and condominiums. Staff proposes to expand the list of uses exempt from the site plan submittal requirement to also include minor additions and alterations to approved site plans.

#### 2. History/Background

- In certain instances, a project proposing small structures to be built internally on a site and not visible from a public right-of-way or adjacent properties, could be considered for exemption from the site plan submittal process. For Example, staff receives site plan amendments every year for the construction of food carts, small sheds and other accessory structures at Busch Gardens Williamsburg. Generally, these structures are proposed to be located far from public right-of-ways and adjacent properties. In many of the projects, there are no impacts to the environment, as most of the improvements are small in scale, and issuance of a Land Disturbing Permit is not required. Another recent example, the request to build a small storage building internally to the Go-Kart Plus Site. The proposed building storage cannot be seen from the public right-of-way or adjacent properties. There were no impacts to the environment, local traffic, landscape areas or to utilities. Due to the current ordinance requirements, a site plan amendment was submitted for review or approval.

#### 3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic. However, revisions to procedures are identified and supported by the 2009 Comprehensive Plan. The Economic Development Goals, Strategies, and Actions (GSA) Section offers the following recommendations:

*ED1.5-Continue to analyze County regulations, policies, and procedures to ensure that they do not unnecessarily inhibit commercial and industrial development; and*

*ED 1.6-Support the recommendations of the Business Climate Task Force as determined by the Board of Supervisors.*

-Staff researched other localities ordinances<sup>1</sup> to evaluate different site plan submittal regulations. While the measures for submitting plans are expectedly different between localities, the majority of the ordinances provide for exemptions. The nature of these exemptions varies, from the scale of the construction footprint, redevelopment of existing sites, to impacts to the environment and traffic.

- In the first of the two Planning Commission Public Forums held on August of 2010, the Director of Designing and Engineering for Busch Gardens Williamsburg requested a modification to the submittal process for minor amendments to previously approved site plans. Staff investigated the site plan submittal process for amusement parks in other localities and found that the majority of localities researched did not require a site plan amendment for smaller additions and alterations.

4. Solution and Policy Options

-Based on staff's research and the input received from the Planning Commission Forum, staff recommends that a section listing exemptions to the site plan submittal requirement be included into the Zoning Ordinance. Staff is currently working to identify criteria to be used in order to exempt a particular use from the site plan requirement. Examples of potential criteria to be considered may include the size and scale of a proposed development, impacts to traffic, adjacent properties, and whether a proposed development can be visible from a public right-of-way.

5. Staff recommendation

- Staff recommends amending Section 24-143 of the Zoning Ordinance to include the above criteria for exempting certain types of development from the site plan submittal requirement.

**B. Administrative Fees (Section 24-7 and Section 19-15)**

1. Description of Issue

-With the support of County Attorney's Office and the Financial and Management Services Department, staff proposes to remove the sections pertaining to administrative fees from the zoning and subdivision ordinance.

2. History and Background

- The Administrative Fees section was first introduced into the Zoning Ordinance in 1974. This section of the ordinance was later amended in 1985; the major revision to this section was the removal of an enumerated fee schedule and introduction of specific language referencing that all fees would be established by resolution of the

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<sup>1</sup> A list of all localities researched is located in the reference section of this memorandum.

Board of Supervisors. In 1991, this section was amended and a fee schedule was once again introduced into the ordinance. Since then, this section of the ordinance has been revised 9 times. An enumerated fee schedule was first introduced into the Subdivision Ordinance in 1989. Since then, the Fee Section of the Subdivision Ordinance has been amended 8 times.

-Staff researched other localities' ordinances to investigate whether a fee schedule was enumerated or found in other document besides the ordinance. Of the 10 localities researched, staff found that half had a fee schedule enumerated in their ordinances while the other half did not enumerate their fee schedule but made reference to a separate document established by the Board of Supervisors/City Council.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic.

4. Solutions and Policy options

-Removing the enumerated fee schedule from the ordinance streamlines the process of updating costs associated with planning and zoning administrative processes. Should the fees section be removed from the ordinance, there would not be a need for a public hearing every instance when fees require adjustment; rather, revisions to fees would be presented directly to the Board of Supervisors for consideration during each annual budget cycle.

5. Staff recommendation

-Staff recommends that Section 24-7 of the Zoning Ordinance and Section 19-15 of the Subdivision ordinance be amended to remove the fee schedule and replace it with language referencing a separate fee schedule document approved by the James City County Board of Supervisors.

**C. Definitions (Section 24-2)**

1. Description of Issue

-There are 174 terms defined under this section of the Zoning Ordinance. Definitions are important tools which help to clarify meaning of planning, zoning, and land use related issues. Staff proposes to amend terms currently defined in the ordinance (refer to attachment No. 2) and introduce definitions as new text and concepts are considered for inclusion as part of the ordinance update process.

2. History and Background

- The criteria used by staff to revise current definitions was based on whether or not a definition of a particular term has been called into question in the past, if it's meaning

required further clarification, or if it needed to be updated to comply with current or proposed regulations and/or State Code.

-Staff is currently working to identify new terms to be included into this section of the ordinance. Staff researched the definition section of 10 other localities' ordinances. Over 1,500 definitions were catalogued. The purpose of this research was to identify terms which are defined in other ordinances but not in the James City County Zoning Ordinance. This research will help staff evaluate the need for new terms to be defined in the ordinance.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic.

4. Solutions and Policy options

- As different sections of the ordinance are revised, and new language is considered for inclusion, staff will identify new terms and their definitions and present them for Policy Committee consideration toward the end of the Zoning Ordinance Update process.

- Staff also proposes to insert the definition of terms which are currently not in the Zoning Ordinance but are found in the Chesapeake Bay Preservation Ordinance (refer to Table C). The reason for this inclusion is that many terms currently defined in the Chesapeake Bay Preservation Ordinance are related to issues presented by the Zoning Ordinance.

**D. Submittal Requirements for Legislative Cases (Section 24-23)**

1. Description of Issue

I. -The methodology for the ordinance update identifies three major areas for potential research under this section: development of guidelines for traffic studies, environmental impact, and fiscal impacts studies (discussed in separate memorandums). The purpose for the development of these guidelines is to standardize different types of information submitted for staff's review and to facilitate the submittal requirements for the applicant (e.g. a template for fiscal impacts guidelines will be available to applicants at no cost.)

II – Sub article (a)(2) of this section of the ordinance indicates that master plans should be prepared in accordance with the requirements of section 24-484(b) (1)-(5), Planned Unit Development District. In fact, master plan submittal requirements for other districts such as Residential Planned Community, R-4 (Section 24-276), Research and Technology, RT (Section 24-464), and Mixed Use, MU (Section 24-515) are very similar.

## **2. Solutions and Policy Options**

-Staff proposes to remove the master plan preparation requirements from the above sections and include all as a sub action under Submittal Requirements for Legislative cases. The purpose of this revision is to organize this information and to avoid repetition throughout the ordinance.

## **E. Illustrations**

### **1. Description of Element**

-Clarity of information and a more user-friendly ordinance is one of the goals identified by staff as part of the update process. With that in mind, staff proposes to add illustrations to the ordinance in order to aid the understanding of zoning/planning subject and concepts which can be, at times, complex to understand. At this stage of the update, staff is working to identify the types of information which would benefit from illustrations. Staff finds that illustrations such as the examples provided in attachment No. 3 can be helpful teaching aid tools.

## **III. Conclusion**

Staff recommends that the Policy Committee support the revisions proposed to the procedural descriptions, submittal requirements and administrative items found under Article I and Article III of the zoning ordinance.

### **ATTACHMENTS:**

1. Table A-Summary of changes to Articles I and III,
2. Table B-Preliminary list of definitions to be amended, Table C-Chesapeake Bay Preservation Ordinance definitions
3. Table D- Example of Illustrations
4. Table E-References